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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,004	08/26/2003	Martin Lund	14223US02	3309
23446 7590 09/14/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER PATEL, CHIRAG R	
			ART UNIT 2141	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/648,004

Applicant(s)

LUND, MARTIN

Examiner

Chirag R. Patel

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

Applicant's arguments filed July 23, 2007 have been fully considered but they are not persuasive. A discussion is provided below.

Examiner notes that May 2, 2005 IDS was not resubmitted with the response at the time of examination.

Examiner asserts Tzeng discloses "receiving at least one packet from a first blade server of a plurality of blade servers, at least two of which are coupled to a common bus". Tzeng discloses per (Col 3 lines 15-28) "Each of the integrated multiport switches 12 are interconnected by gigabit Ethernet links 16, enabling transfer of data packets between subnetworks (or subnets) 18a, 18b, and 18c. Hence, each subnetwork includes a switch 12, and an associated group of network stations 14." The interconnection of gigabit Ethernet links 16 clearly reads on claim limitations, common bus. The network stations are interpreted broadly as blade servers as they send a outgoing data packet per Cols 4 lines 22-30 per applicant's disclosure [0008], "A server may be a computer system in a network that may be accessed by one or more users and/or other computers." (See MPEP 2111: 2111 [R-5] Claim Interpretation; Broadest Reasonable Interpretation) To further add, Tzeng discloses per Col 4 lines 22-30, "FIG. 3 is a flow diagram illustrating an example of the type of layer 3 processing that might be performed for an incoming data packet" and this passage clearly reads on "receiving

at least one packet from a first blade server of a plurality of blade servers, at least a portion of which is coupled to a common bus”.

In response to applicant's argument that Tzeng does not relate to communication information in a server, examiner points to MPEP 737.10. Examiner asserts further that the purpose of the preamble is in contrast to the claim language which recite “routing at least a portion of said at least one received packet to at least said second blade server” which was interpreted reasonably in light of the specifications and the title of the invention as communicating information between servers.

Per MPEP ¶ 7.37.10 Unpersuasive Argument: Limitation(s) in Preamble

In response to applicant's arguments, the recitation [ 1 ] has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Examiner asserts that layer 3 processing per Figure 3 in Tzeng was used for the switch to function at the network or routing layer, as evidenced by one of ordinary skill in the art, or more specifically per claim limitations “routing at least a portion of said at least one received packet to at least said second blade server”.

Tzeng discloses per Col 5 lines 46-59, “Each incoming data packet with prescribed layer 3 information detected contains a source and destination Internet

protocol ("IP") address. Each data packet also contains a source and destination media access control ("MAC") address. The IP and MAC address are the identifiers corresponding to the second blade server in accordance with the above discussion and in light of applicant's specifications.

### ***Claim Objections***

Claims 1, 11, and 21 are objected to because of the following informalities:

Claim limitations recite "receiving at least one packet ... at least two of which *is* coupled to a common bus". Examiner interpreted this as and suggests changing this to "receiving at least one packet ... at least two of which *are* coupled to a common bus" to be in compliance with the English language. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Tzeng (US 6,574,240).

As per claims 1, 11, and 21 Tzeng discloses a method for communicating information in a server, the method comprising:

receiving at least one packet from a first blade server of a plurality of blade servers, at least two of which is coupled to a common bus; (Col 3 lines 15-28, Col 4 lines 22-30)

determining at least one identifier associated with at least a second blade server based on at least a portion of said received at least one packet; and (Col 5 lines 46-59)

routing at least a portion of said at least one received packet to at least said second blade server. (Col 6 lines 4-18)

As per claims 2, 12, and 22, Tzeng discloses the method according to claim 1, comprising transferring said at least a portion of said at least one received packet to said at least said second blade server via said common bus. (Col 6 lines 14-18)

As per claims 3, 13, and 23, Tzeng discloses the method according to claim 3, further comprising determining at least one identifier of said switch blade. (Col 6 lines 28-41)

As per claims 4, 14, and 24, Tzeng discloses the method according to claim 4, further comprising determining at least one identifier of said first blade server. (Col 5 lines 46-59)

As per claims 5, 15, and 25, Tzeng discloses the method according to claim 4, further comprising determining at least one identifier of said first blade server. (Col 5 lines 46-59)

As per claims 6, 16, and 26, Tzeng discloses the method according to claim 5, wherein said identifier of said first blade server, said identifier of said second blade server and said identifier of said switch blade is one or both of a MAC address and an IP address. (Col 5 lines 46-59 )

As per claims 7, 17, and 27, Tzeng discloses the method according to claim 1, comprising: acquiring at least one identifier of said first blade server; and transferring said acquired at least one identifier of said first blade server to at least said second blade server. (Col 5 lines 46-59, Col 6 lines 14-18)

As per claims 8, 18, and 28, Tzeng discloses the method according to claim 1, comprising broadcasting at least a portion of said at least one received packet on said common bus. (Col 7 lines 53-59)

As per claims 9, 19, and 29, Tzeng discloses the method according to claim 1, comprising receiving a broadcast containing said at least one received packet. (Col 7 lines 53-59)

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As per claims 10, 20, and 30, Tzeng discloses the method according to claim 1, comprising receiving at least one packet from said second blade server and transferring said at least at portion of said at least one packet received from said second blade server to at least one of said first blade server and a third blade server. (Col 3 lines 15-28)

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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C.P. C.P.



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SUPERVISORY PATENT EXAMINER